

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi -110011

F.No. 18/80/2018-19/ECA-I/177

Date of Order: 07 .08.2019

Date of Dispatch: 09 .08.2019

Name of the Appellant:

Indokem Ltd., Khatau House, Plot No. 410/411,
Mogul Lane, Mahin(West), Mumbai-400016.

IEC No.

0388097621

Order reviewed against:

Order-in-Appeal No. 11/410/2010-11/ECA-I/1109 dated
28.06.2011 passed by the Addl. DGFT, Mumbai.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

Order-in-Review

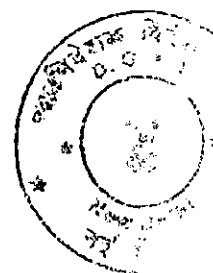
Indokem Limited (here-in-after referred to as "the petitioner"), Mumbai filed a Review Petition dated 07.01.2019 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 against Order-in-Appeal No. 11/410/2010-11/ECA-I/1109 dated 28.06.2011 passed by the Addl. DGFT, Mumbai rejecting the appeal against an adjudication order wherein the Adjudicating Authority had imposed a penalty of Rs.5,00,000/-.

Brief facts of the case

2.1 The petitioner obtained an Advance Authorisation No. 0310091485 dated 04.07.2001 from RA, Mumbai as per the provisions of the Foreign Trade Policy prevalent during the period for a CIF value of Rs. 24,01,512/- (US\$ 51,096/-) with an export obligation of Rs. 32,43,000/- (US\$. 69,000/-) to be completed within a period of 18 months from the date of issue of the Authorisation. As per the conditions of the authorisation, the petitioner was required to submit the export documents towards fulfilment of export obligation within the time frame as mentioned in the relevant FTP.

2.2 The Export Obligation (EO) period expired. The petitioner submitted some export documents towards fulfilment of export obligation. After examining the export document, a letter dated 29.05.2008 was issued to the petitioner to regularise the case under the procedure prevalent during the period, by paying customs duty plus interest towards excess import and submit the documentary evidence. Despite several reminders and opportunities of personal hearings, the petitioner did not submit the document evidencing payment of customs duty plus interest towards excess import. The petitioner contravened Rules 13 and 14 (1) and (2) of Foreign Trade (Regulation and Development) Rules, 1993 and section 11(2) of Foreign Trade (Development & Regulation) Act, 1992. Therefore the Adjudicating Authority passed Order-in-Original dated 24.06.2010 imposing a fiscal penalty of Rs.5,00,000/-.

2.3 The petitioner filed an appeal on 29.07.2010 before the Appellate Authority against Order-in-Original dated 24.06.2010. The Appellate Authority observed that till that time the petitioner did not get his case regularised by paying customs duty and interest on the material left unutilised with him which was



imported free of duty for export purposes. Therefore, the Appellate Authority, vide the Order-in-Appeal dated 28.06.2011 dismissed the appeal.

3.0 The petitioner has now submitted a review petition dated 07.01.2019 before DGFT requesting to set aside Order-in-Appeal dated 28.06.2011. The petitioner has, inter-alia, submitted the following:

(i) It has already completed the export obligation within the stipulated time both quantity wise and value wise.

(ii) It delayed in payment of customs duty due to misplacement of original Advance Licence and DEEC Books.

(iii) It paid customs duty along with interest to Mumbai Customs on 21.12.2018 for Rs.93,642/-

4.0 The petitioner was afforded an opportunity of personal hearing on 28.03.2019. I have gone through the facts and records carefully. The petitioner has claimed to have deposited customs duty plus interest towards excess imports.

5.0 I, therefore, in exercise of the powers vested in me under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended) pass the following order:

Order

F.No. 18/80/2018-19/ECA-I

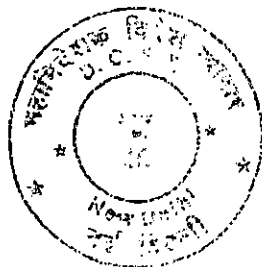
Dated: .08. 2019

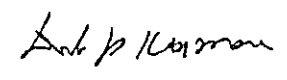
The appellate order and adjudication order in question is set aside. The petitioner is directed to get the Advance Authorisation No. 0310091485 dated 04.07.2001 regularised from the office of Additional DGFT, Mumbai under the provisions of Foreign Trade Policy, within three months.


(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

Copy To:

- ✓ (1) Indokem Ltd., Khatau House, Plot No. 410/411, Mogul Lane, Mahin(West), Mumbai-400016
- (2) Additional DGFT, Nishta Bhavan, (New C.G.O. Building), New Marine Lines, Churchgate, Mumbai - 400020
- (3) DGFT website.




(Dilip Kumar)
Dy. Director General of Foreign Trade